

REMARKS

Claims 11, 12, and 14-27 are pending in this application. By this Amendment, claims 11, 12 and 14-20 are amended, claim 13 is canceled and claims 21-27 are added. Support for the amendments to the claims may be found, for example, in the original claims and throughout the specification. No new matter is added.

In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

I. Information Disclosure Statement

As indicated in the May 12, 2005 Information Disclosure Statement, the significance of the non-English language reference EP 0 467 039 is discussed in the instant specification. Accordingly, for this reference, Applicant respectfully submits that the reference was properly submitted and should have been considered and acknowledged. However, in the interest of advancing prosecution, an Information Disclosure Statement is filed herewith to submit an English language abstract and a corresponding U.S. patent for the reference.

As to reference numbers 3 and 5, the above-mentioned Information Disclosure Statement is filed herewith to submit their English language abstracts and corresponding U.S. patents.

II. Examiner's Comments

The claims are amended according to the Examiner's helpful suggestions. Specifically, by this Amendment, the word "contain" is deleted from the claims.

III. Rejection Under 35 U.S.C. §112, Second Paragraph

The Office Action rejects claims 11-20 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. By this Amendment, claim 13 is canceled rendering its rejection moot, and claims 11-12 and 14-20 are amended in light of the

Examiner's comments. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

IV. Rejection Under 35 U.S.C. §102

The Office Action rejects claims 11, 13, 15, and 16 under 35 U.S.C. §102(a) as being anticipated by WO 02/26494 A2 to Blok et al. (hereinafter "Blok"). By this Amendment, claim 13 is canceled rendering its rejection moot. As to the remaining claims, Applicant respectfully traverses the rejection.

Without conceding the propriety of the rejections, independent claim 11 is amended to more clearly recite various novel features of the claimed invention, with particular attention to the Examiner's comments. Specifically, claim 11 is amended to recite:

Multilayer planar or tubular sausage casing, comprising:
a layered structure having an inside and an outside and at least seven layers, wherein
a first layer from the outside comprises polyamide as a layer constituent,
a second layer from the outside comprises PVA as a layer constituent,
a third layer from the outside comprises polyamide as a layer constituent,
a fourth layer from the outside comprises an adhesion promoter as a layer constituent,
a fifth layer from the outside comprises a polyolefin as a layer constituent,
a sixth layer from the outside comprises an adhesion promoter as a layer constituent, and
a seventh layer from the outside comprises polyamide as a layer constituent.

Blok at least fails to teach: (1) "a first layer from the outside comprising a polyamide as a layer constituent," (2) "a seventh layer from the outside comprises polyamide as a layer constituent," and (3) and a seven layer structure with specific layers arranged as indicated above. Therefore, Blok does not teach each and every feature as set forth in claim 11 and, thus, does not anticipate claim 11.

Blok does not anticipate claim 11. Claims 15 and 16 depend from claim 11 and, thus, also are not anticipated by Blok. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

V. Rejections Under 35 U.S.C. §103

A. Claim 12

The Office Action rejects claim 12 under 35 U.S.C. §103(a) over U.S. Patent No. 6,541,097 to Pophusen et al. (hereinafter "Pophusen") in view of U.S. Patent No. 5,324,572 to Keuchler et al. (hereinafter "Keuchler"). Applicant respectfully traverses the rejection.

The Office Action acknowledges that Pophusen at least fails to disclose that the barrier layer is PVA instead of EVOH and relies on Keuchler to cure this deficiency. Applicant respectfully submits that despite its asserted teachings Keuchler does not cure the deficiencies of Pophusen.

Keuchler discloses a multilayer film with a layer of highly hydrolyzed PVA, not PVA, as recited in claim 12. See Keuchler, col. 1, lines 5-16, reproduced below in-part for convenience.

The invention relates to multilayer laminated films which can be subjected to thermoplastic shaping and have an improved gas barrier action, consisting of at least one gas barrier film based on polyvinyl alcohol (PVAL). . . . The gas barrier films contain highly hydrolyzed PVAL and the multilayer laminated films have, compared with the prior art, an improved gas barrier action, in particular against oxygen and against aroma substances, and advantageous mechanical properties.

Furthermore, Keuchler discloses that unhydrolyzed polyvinyl alcohol is difficult to shape and extrude even with considerable additions of plasticizer. See Keuchler, col. 1, lines 39-44.

However, the latter [ethylene/vinyl alcohol] can be extruded and coextruded easily without additions of plasticizer, in contrast to customary PVALs, which can be subjected to thermoplastic

shaping and extrusion only with difficulty and with considerable additions of plasticizer.

Therefore, one of ordinary skill in the art would not have substituted unhydrolyzed PVA for the EVOH of Pophusen because Kuechler teaches that PVA, as recited in claim 12, is shaped with difficulty and requires considerable additions of plasticizer, which are undesirable in packaging manufactured for use with food products. Thus, Applicant respectfully submits that the use of PVA in the multilayer planar or tubular sausage casing of claim 12 would not have been predictable to one of ordinary skill in the art at the time of the invention.

Therefore, for at least the reasons discussed above, the combination of Pophusen and Kuechler is improper because the Office Action has not demonstrated that substitution of one known element for another yields predictable results. Thus, claim 12 would not have been obvious to one of ordinary skill in the art. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

B. Claims 14 and 19-20

The Office Action rejects claims 14, 19, and 20 under 35 U.S.C. §103(a) as obvious over Blok in view of Pophusen. Applicant respectfully traverses the rejection.

For at least the reasons discussed above, Blok does not disclose all the features of claim 11. Despite its asserted teachings, Pophusen does not cure the deficiencies of Blok with respect to claim 11. Therefore, Blok and Pophusen, considered either separately or combined, fail to teach or suggest all of the features of claim 11.

Claim 11 would not have been rendered obvious by Blok and Pophusen. Claims 14, 19, and 20 depend from claim 11 and, thus, also would not have been rendered obvious by Blok and Pophusen. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

C. Claim 17

The Office Action rejects claim 17 under 35 U.S.C. §103(a) over Blok in view of U.S. Patent No. 6,177,159 to Tajiri et al. (hereinafter "Tajiri"). Applicant respectfully traverses the rejection.

For at least the reasons discussed above, Blok does not disclose all the features of claim 11. Despite its asserted teachings, Tajiri does not cure the deficiencies of Blok with respect to claim 11. Therefore, Blok and Tajiri, considered either separately or combined, fail to teach or suggest all of the features of claim 11.

Claim 11 would not have been rendered obvious by Blok and Tajiri. Claim 17 depends from claim 11 and, thus, also would not have been rendered obvious by Blok and Tajiri. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

D. Claim 18

The Office Action rejects claim 18 under 35 U.S.C. §103(a) over Blok in view of U.S. Patent No. 5,595,623 to Lulham et al. (hereinafter "Lulham"). Applicant respectfully traverses the rejection.

For at least the reasons discussed above, Blok does not disclose all the features of claim 11. Despite its asserted teachings, Lulham does not cure the deficiencies of Blok with respect to claim 11. Therefore, Blok and Lulham, considered either separately or combined, fail to teach or suggest all of the features of claim 11.

Claim 11 would not have been rendered obvious by Blok and Lulham. Claim 18 depends from claim 11 and, thus, also would not have been rendered obvious by Blok and Lulham. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

VI. New Claims

By this Amendment, new claims 21-27 are presented. New claims 21-27 depend from claim 12 and, thus, distinguish over the applied references for at least the reasons discussed above with respect to claim 12. Prompt examination and allowance of new claims 21-27 are respectfully requested.

VII. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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